

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DAVID STEWART, :  
:

Plaintiff, : 17 Civ. 565 (GWG)

-v.- : ORDER

GEORGE KALTNER, et al., :  
:

Defendants. :  
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**GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE**

The Court's Order dated December 17, 2019, (Docket # 160) required the parties to file certain affidavits of direct testimony by January 27, 2020. Defendants have submitted affidavits for two of their witnesses (Docket # 166) and have seemingly asked to extend the deadline as to others (Docket # 165). Plaintiff has not filed any affidavits of direct testimony, not even of the plaintiff himself even though he presumably intends to testify.

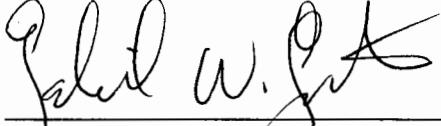
The Court's order was not optional. The Court will preclude the testimony of any witness for a party within the party's control for whom affidavits of direct testimony have not been filed. This includes testimony of the plaintiff or the individual defendant.

As noted, the Court reads defendants' letter (Docket # 165) as a request for an extension of the deadline to file witness affidavits. The Court will grant the extension until tomorrow, January 29, 2020. Additionally, the Court will, sua sponte, extend plaintiff's deadline to file his affidavits to January 29, 2020.

The Court's Order also required counsel for the adverse party to file a list of all affiants whom he or she intends to cross-examine within three business days of the filing of the affidavits. This deadline, is not extended and thus counsel must file a list of the affiants he or she intends to cross-examine by January 30, 2020. As stated in the Order, only those witnesses who will be cross-examined need to appear at trial. The parties are reminded that all original affidavits must be brought to the trial as they will be marked as exhibits.

Finally, defendants refer to a potential future request that "the Court . . . issue trial subpoenas" for certain parties. That request is denied. Trial subpoenas may be signed by an attorney without involvement of the Court. See Fed. R. Civ. P. 45(a)(3).

Dated: January 28, 2020  
New York, New York

  
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GABRIEL W. GORENSTEIN  
United States Magistrate Judge

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DOCUMENT  
ELECTRONICALLY FILED  
DOC #: 1/28/20  
DATE FILED: 1/28/20